

57-1-24.5. Notice to trustor of intent not to defer notice of sale.

(1) A beneficiary, or the beneficiary's authorized agent, shall deliver or send a notice to a trustor as provided in Subsection (2) if:

(a) the trust property is residential;

(b) a notice of default is filed under Section 57-1-24 with respect to the trust property;

(c) during the three-month period described in Subsection 57-1-24(3), the beneficiary or agent agrees to accept reduced payments from the trustor on a temporary basis; and

(d) notwithstanding the reduced payment arrangement, the beneficiary or agent does not intend to instruct the trustee to defer giving notice of sale under Section 57-1-25 later than the earliest time allowed under Subsection 57-1-24(3).

(2) A notice under Subsection (1) shall:

(a) be in writing;

(b) (i) be hand delivered to the trustor; or

(ii) be sent by certified mail, return receipt requested, to the trustor at the address of the trust property;

(c) be delivered or sent on or before the date that is 30 days after the notice of default is filed or 10 days after the beneficiary or agent agrees to accept reduced payments, whichever is later; and

(d) inform the trustor that, despite the reduced payment arrangement, the beneficiary or agent does not intend to instruct the trustee to defer giving notice of sale under Section 57-1-25 later than the earliest time allowed under Subsection 57-1-24(3).

(3) A beneficiary or agent who sends or delivers notice to a trustor under this section shall mail a copy of the notice to the trustee.

(4) The failure of a beneficiary or agent to comply with a requirement of this section does not affect the validity of a trustee's sale of the trust property.

(5) (a) A beneficiary or agent who fails to send or deliver a notice to a trustor as required in this section is liable to the trustor for the actual damages suffered by the trustor as a result of the failure or \$2,000, whichever is greater.

(b) In an action under Subsection (5)(a), the court shall award a prevailing plaintiff the plaintiff's costs and attorney fees.

Enacted by Chapter 228, 2011 General Session